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REMARKS/ARGUMENTS

Applicant brings to the attention of the Examiner that while claims 9 and 18 are included as being rejected on page 1 of the Office Action, there is no explanation in the body of the Office Action why these claims are being rejected. Furthermore, the Examiner has rejected claims 16 and 20 as being anticipated by Jamieson (U.S. Patent No. 6,813,644) and also as being obvious having regard to Jamieson in view of Bates (RFC 2283: "Multiprotocol Extensions for BGP-4"). If Jamieson were to truly anticipate claims 16 and 20 as alleged by the Examiner, there should be no reason to combine another reference to disclose all the limitations of the claims.

Status of Claims

Claims 1-21 remain in the application.

35 U.S.C 102 Claim Rejections

The Examiner has rejected claims 1-6, 10-16 and 19-20 under 35 U.S.C. 102(e) as being anticipated by Jamieson (U.S. Patent No. 6,813,644).

The Examiner alleges that Jamieson discloses all the features recited in claim 1. Applicant submits that Jamieson does not disclose all the limitations recited in claim 1. The Examiner has not pointed to anywhere in the reference that explicitly discloses "A Border Gateway Protocol Speaker (BGP Speaker) in a communication system which implements at least one network based Virtual Private Network (NB-VPN) across a backbone, the at least one NB-VPN using an Open System Interconnect (OSI) layer-2 protocol and an OSI layer-3 protocol, at least one NB-VPN using an OSI layer-2 protocol different from an OSI layer-2 protocol used by the backbone or using an OSI layer-3 protocol different from an OSI layer-3 protocol used by the backbone" (emphasis added).

The Examiner alleges that Jamieson discloses "the Update message further including VNP Reachability information; and Tunnel Mechanism information". The Examiner states that VNP Reachability information is disclosed in Jamieson at column 3, lines 55-65 and column 4,

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lines 36-40 and that Tunnel Mechanism information is described at column 7, lines 16-22. Column 7, lines 16-22 of Jamieson states "the PE nodes required VPN reachability information to establish MPLS tunnels corresponding to VPN connections". Applicant submits that reachability information is not the same as tunnel mechanism information. If they were the same then claim 1 would not recite both VPN Reachability information and Tunnel Mechanism information as distinct and separate features. As can be found in the description of the present application at page 9, line 20 to page 10, line 3 an example of what is meant as VPN Reachability information is "a Length of VPN Reachability Entries Field 125, and zero or more VPN Reachability Entries 130". As can be found in the description of the present application at page 10, lines 4-22, an example of what is meant as tunnel mechanism information is "a Length of VPN Tunnel Entries field 135 and zero or more VPN Tunnel Entry fields 140. Each VPN Tunnel Entry field has a format as shown in FIG. 3c, and includes a Tunnel Type field 165, a Length field 170, and a Tunnel Value field 175. The Tunnel Type field 165 indicates a type of tunnelling mechanism, and is two octets in length. The Length field 170 indicates a length of the Tunnel Value field in bits, and is one octet in length. The Tunnel Value field 175 carries information related to an endpoint of the tunnel, and has a variable length. The Tunnel Value field 175 can carry, for example, address information, Quality of Service information, and tunnel mechanism parameters". The Tunnel Type field allows specifying any tunnel technology not just MPLS.

Jamieson also does not disclose that the Update message has a VPN Reachability Mode as recited in claim 1. An example of what the VPN Reachability Mode may be is described at page 10, lines 20-30, which states: "The VPN Reachability Mode field 120 indicates whether a piggybacking model or a VR model is being used by the VPNs to which the NLRI relates, and is one octet in length". Jamieson does not disclose that multiple VPN models having different reachability models can be utilized by the network and thus be identified in the Update message.

Jamieson discloses PE nodes requiring VPN reachability information to establish MPLS tunnels. Even if it were considered that Jamieson disclosed VPN Reachability information in the same manner as recited in claim 1, Applicant submits there the VPN Reachability information and Tunnel Mechanism information are not the same. While the Examiner has provided an

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indication that Jamieson discloses VPN Reachability information, the Examiner has not provided any indication that Jamieson discloses Tunnel Mechanism information that is separate and distinct from VPN Reachability information. Therefore, Applicant submits that Jamieson does not disclose what is recited in claim 1.

For at least the reasons discussed above Applicant submits that Jamieson does not disclose all the features recited in claim 1. As all the features of the claim are not disclosed, Jamieson cannot be said to anticipate the claim.

Claims 2-6 are dependent either directly or indirectly on claim 1. Claims 2-6 are allowable for at least the same reasons as claim 1 discussed above.

Independent claim 10 is directed to "a data format embodied in a transmission medium" and is similar in subject matter to independent claim 1. Applicant submits that claims 10-16 are allowable for at least the same reasons discussed above with regard to claim 1. Similarly, Applicant submits that claims 19 and 20, directed to "a virtual router" are allowable for at least the same reasons discussed above with regard to claim 1.

It is respectfully requested that the Examiner reconsider and withdraw the rejection of claims 1-6, 10-16 and 19-20 under 35 U.S.C. 102(c).

35 U.S.C 103 Claim Rejections

The Examiner has rejected claims 7, 8, 16, 17, 20 and 21 under 35 U.S.C. 103(a) as being unpatentable over Jamieson in view of Bates (RFC 2283: "Multiprotocol Extensions for BGP-4").

The present application and U.S. Patent No. 6,813,644 (Jamieson) were, at the time the present invention was made, owned by or subject to an obligation of assignment to Nortel Networks Limited. The inventors of the present invention are full time employees of Nortel Networks Limited, and have a contractual obligation to assign all inventive rights to Nortel Networks Limited.

In addition to the above statement regarding common ownership, Applicant submits the

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following evidence of common ownership:

- i) an enclosed copy of a United States Patent and Trademark Office Notice of Recordation of Assignment together with a copy of an Assignment in connection with the present application in which entire rights to the present application are assigned to Nortel Networks Limited; and
- ii) an enclosed copy of a United States Patent and Trademark Office Notice of Recordation of Assignment together with a copy of an assignment in connection with U.S. Patent Application No. 09/441,367, which issued as U.S. Patent No. 6,813,644, in which entire rights to the U.S. Patent were assigned to Nortel Networks Limited.

The present application and U.S. Patent No. 6,813,644 were, at the time the present invention was made, owned by or subject to an obligation of assignment to Nortel Networks Limited. The cited reference only qualifies as prior art under 35 U.S.C. 102(e). Therefore, the criteria set out in 35 U.S.C. 103(c) are satisfied, and the reference should not be used to preclude patentability under 35 U.S.C. 103. The Examiner is respectfully requested to withdraw the 35 U.S.C. 103(a) rejection of claims 7, 8, 16, 17, 20 and 21.

In view of the forgoing, early favorable consideration of this application is earnestly solicited.

Respectfully submitted,

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